

**IOWA DEPARTMENT OF NATURAL RESOURCES**  
**ADMINISTRATIVE CONSENT ORDER**

<b>IN THE MATTER OF:</b>  <b>CITY OF FAIRFIELD</b> <b>Wastewater Facility No. 6-51-31-0-01</b>	<b>ADMINISTRATIVE CONSENT ORDER NO. 2008-WW- 19</b>
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**TO: City of Fairfield**  
**c/o Honorable Mayor and Council**  
**City Hall**  
**118 S. Main Street, P.O. Box 850**  
**Fairfield, IA 52556**

**I. SUMMARY**

This administrative consent order (order) is entered into between the City of Fairfield (City) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order. The City hereby agrees to comply with the requirements in this order for addressing sanitary sewer overflows. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions or response regarding this order should be directed to:

**Relating to Technical Requirements:**

Jim Sievers  
Environmental Specialist Senior  
IDNR Field Office #6  
1023 West Madison  
Washington, Iowa 52353  
Ph: 319/653-2135

**Relating to Legal Matters**

Diana L. Hansen  
Attorney at Law  
Iowa Department of Natural Resources  
Henry A. Wallace Building, 502 E. 9<sup>th</sup> St.  
Des Moines, Iowa 50319-0034  
Ph: 515/281-6267

**II. JURISDICTION**

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I,

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and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

The Department and the City hereby agree to the following statement of facts:

1. The City owns and operates a wastewater treatment facility (WWTF) located in Section 6, Township 71N, Range 9W in Jefferson County, Iowa. This facility consists of a bar screen, grit chamber, comminutor, two primary clarifiers, two oxidation ditches, two final clarifiers, a polishing pond, and two aerated storm water retention basins.

2. The City operates its WWTF pursuant to NPDES Permit No. 6-51-31-0-01, issued by the Department on September 14, 1999 with an expiration date of September 14, 2004. The City applied for renewal of the permit. Treated wastewater is discharged pursuant to this facility's permit from Outfall No. 001. The permit contains effluent limitations for the discharge of pollutants, including but not limited to carbonaceous biochemical oxygen demand (CBOD5), total suspended solids (TSS), and pH. The permit also includes ammonia nitrogen, copper, cyanide and zinc effluent limits and monitoring requirements.

3. A sanitary sewer system (SSS) is a municipal wastewater collection system that conveys domestic, commercial, and industrial wastewater, and limited amounts of infiltrated groundwater and storm water to a publicly owned treatment works (POTW). The typical wastewater collection system is not designed to collect large amounts of storm water runoff from rainfall events. In such systems, storm water is conveyed through another system of pipes. Untreated or partially treated discharges from SSS's are referred to as sanitary sewer overflows (SSO's). An SSO is defined as an untreated or partially treated sewage release from the wastewater collection system. Such releases occur when collection system capacity is exceeded due to wet weather as the result of infiltration and inflow, when normal dry weather flow is blocked, or when mechanical failures prevent the system from proper operation. Causes of SSO's include blockages, line breaks, sewer defects that allow excess storm water and groundwater to overload the system, lapses in sewer system operation and maintenance, inadequate sewer design and construction, power failures, and vandalism. See the Report to Congress on Impacts and Control of Combined Sewer Overflows and Sanitary Sewer Overflows, August 2004, EPA 833-R-04-001.

4. Field Office No. 6 became aware of SSO's in the City's wastewater collection system in 2004. On July 2, 2004 a field office inspector observed a wastewater bypass pipe located in a manhole. The manhole was located on the east side of a small creek that is south of Econo Foods in Fairfield. The bypass pipe was ten to twelve inches in diameter and was located near the top of the manhole. The inspector concluded that a wastewater discharge had occurred from the manhole since there was toilet paper on

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nearby vegetation. There was also a small pool of gray water below the pipe, indicating that the manhole had overflowed recently.

The field office inspector met with City officials on July 22, 2004 to discuss the City's inflow/ infiltration (I/I) plan. At the meeting the inspector informed the City officials that the July 2, 2004 SSO location was not identified in the City's permit. The City officials informed the inspector that there were at least seven other overflow locations in the collection system and that the locations of these SSO's would be provided to the Department. The inspector discussed the need for the City to have a comprehensive I/I reduction program. At the time of the meeting, the City replaced sewers on an as-needed basis. There was no written plan for televising or smoke testing sewer lines. The City agreed to develop and submit a comprehensive plan for review of the entire collection system.

5. By a letter dated June 8, 2005, the City's wastewater superintendent submitted a list of the locations of twelve SSO's, two of which had been eliminated. Included with the letter was a summary of the City's October 13, 2005 investigation of the SSO's. The letter stated that the City had committed to elimination of the remaining ten SSO discharge points.

6. On August 10, 2005 the field office inspector visited the City's WWTF and met with the City's new wastewater superintendent, who was hired July 2005. The superintendent stated that the City budgeted \$200,000 to televise and inspect sewer lines and to purchase flow meters. The sewer lines were to be televised in September 2005. The superintendent stated that he hoped to plug some of the SSO's after the inspection. The inspector also discussed bypassing reporting requirements and gave the superintendent the 24 hour emergency response number to report after hours wastewater discharges.

7. The wastewater superintendent resigned in December 2005. The City hired Ken Goering as its wastewater superintendent in 2006. During 2006 the new superintendent identified 14 SSO's and has been very aggressive in identifying SSO discharge points and documenting overflows when they occur. During 2006 Mr. Goering identified at least ten overflows due to I/I. The City purchased a camera to use to view sewer pipe in the collection system.

8. A Field Office No. 6 inspector visited with Ken Goering, the City's Wastewater superintendent, on December 20, 2006 at the City's WWTF. Mr. Goering informed the inspector that the City had purchased one half dozen flow meters for installation in the collection system. The flow meters would assist the City in determining possible locations of high I/I. The flow meters in the collection system would help the City to record SSO's and would also be useful in determining actual peak flows to the lift station during SSO discharge events. Mr. Goering discussed the progress on the Greased Lightning lift station project. He informed the inspector that the contract had been awarded for the work. A construction permit was issued for the project on October 19,

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2006. The project involves constructing a totally new lift station at the site. The old pump will be stored as a backup pump. The lift station work was completed fall 2007 and should aid in reducing wet weather SSO discharges. The City has also committed to conducting an I/I study and developing a plan of action for reducing and/ or eliminating I/I and subsequently eliminating SSO discharge points.

9. Wastewater bypassing or SSO discharge incidents have been documented in the City's system from October 31, 2005 through November 1, 2005; April 6, 2006; July 17, 2006; February 24 through 25, 2007; March 1, 2007; April 24 and 25, 2007; May 4, 6 and 7, 2007; May 30- 31, 2007; June 1, 2007; June 9, 2007; June 22, 2007, July 27, 2007, August 8, 2007, October 17, and 18, 2007, and December 11, 2007. The discharges that occurred in July 2006, in February 2007, in April 2007, in May 2007, on June 1 and June 22, 2007, in July 2007, in August 2007, and in October 2007 occurred after either severe rainfall events or a winter storm causing power outages. The wastewater discharge on April 6, 2006 was caused by lightning striking a lift station leading to a power outage and the release of wastewater. The discharge on June 9, 2007 occurred due to mechanical problems at a lift station. The discharge on December 11, 2007 occurred due to a mechanical problem with a pump regulator.

**IV. CONCLUSIONS OF LAW**

The parties agree that the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.175(1) provides in part: If there is substantial evidence that any person has violated or is violating any provision of this division or chapter 459, subchapter III, or of any rule established or permit issued pursuant thereto; then:

1. The director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease.

2. Iowa Code section 455B.186(1) prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. This section provides as follows:

1. A pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the director. A pollutant whether treated or untreated shall not be discharged into any state owned natural or artificial lake.

SSO discharges from the City that reach waters of the state are point source discharges and like any other point source discharge from a City's WWTF are prohibited unless authorized by an NPDES permit. Since the City's SSO discharge points are not

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authorized by an NPDES permit, discharges from such SSO discharge points are unauthorized discharges.

3. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without or contrary to a permit from the Department.

4. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission to promulgate rules relating to the operation of waste disposal systems, including rules relating to monitoring and reporting requirements. The Commission has done so at 567 IAC chapters 60- 64. Subrule 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 64.7 specifies the conditions that are to be included in a permit, including applicable effluent limitations and proper operation and maintenance.

5. The City's NPDES permit requires proper operation and maintenance of the WWTF in section 8 of the standard conditions. "All facilities and control systems shall be operated as efficiently as possible and maintained in good working order." The large number of SSO discharge points in the City's collection system and discharges from the SSO discharge points are indicative of operational and maintenance deficiencies in the City's collection system that need to be corrected.

**V. ORDER**

THEREFORE, the Department hereby orders and the City consents to do the following:

1. The City agrees to complete I/I flow data collection by June 1, 2008 and submit appropriate documentation that the ordered I/I flow data collection occurred in a timely manner. The due date for submittal of confirming documentation is no later than July 1, 2008.

2. The City agrees to submit a plan of action with a compliance schedule for collection system improvements and subsequent elimination of SSO discharge points by June 1, 2009.

3. The City agrees to the payment of stipulated penalties in the amount of \$300.00 per day that the deadlines established for the City in sections V.1 and V.2 of this order are not met by the City. Payment is due within sixty days of the particular deadline that is not met.

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**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission to establish by rule a schedule of civil penalties up to \$10,000.00, which may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with stipulated penalties for violation of the compliance schedule in this order.

The penalties stipulated by the parties in this order are for future violations, if they occur. The stipulated penalties are designed to reflect the potential economic benefit to the City for failure to make the expenditures needed to stay on schedule. Such penalties are related to the probable severity of the violations in that not meeting the compliance schedule in this order is a fairly serious matter. The penalties would also be related to future culpability in that the City has been put on notice by this order that stipulated penalties will result if the compliance schedule is not met.

**VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175, and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Environmental Protection Commission. This order is entered into knowingly by and with the consent of the City. By signature to this order, all rights to appeal this order are waived.

**VIII. NONCOMPLIANCE**

Failure to comply with this order may result in the imposition of administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191. Compliance with paragraphs V.1 and V.2 of this order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this order. The Department reserves the right to issue a new administrative order with an administrative penalty or to seek referral to the Attorney General in lieu of collecting the agreed upon stipulated penalties established by this order.

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ED MALLOY, MAYOR  
MAYOR OF FAIRFIELD

Dated this 2 day of  
May, 2008

  
RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 16 day of  
May, 2008

City of Fairfield- NPDES Permit No. 6-51-31-0-01, Field Office No. 6- Jim Sievers,  
Legal Services- Diana L. Hansen, U.S.E.P.A. Region VII, L.B.2.d., I.C.1.